IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 4355 OF 2005

Avinash Mane..... ... Petitioner.

Versus

M/s.Naranji Anandji & Co.& Ors..... Respondents.

None for the Petitioner.
Mr. K.M.Sangani for the Respondents.

CORAM : B.H.MARLAPALLE, J.

DATED : 20TH APRIL, 2007.

P.C.:

None present for the petitioner. Mr. K. M. Sangani, learned Counsel appears for the respondents.

2. R. A. E. Suit No. 419 of 1981 which was filed for seeking decree of eviction on the ground of arrears of rent, unlawful subletting and bonafide requirements, came to be allowed by the learned Judge, Small Causes Court at Mumbai. By the jdugment and order passed by the learned Judge on 15th November, 2003, the suit was decreed and the defendant was directed to handover vacant and peaceful possession of the suit premises to the plaintiff within a aperiod of

six weeks from the date of the order. Aggrieved by the said judgment and order, the defendant filed Appeal No. 100 of 2004 which came to be dismissed by the learned Division Bench of the Small Causes Court at Mumbai vide its judgment and order dated 24th February, 2005.

3. In this writ petition the judgment and order passed by the lower appellate court confirming the judgment and order passed by the learned Judge, Small Causes Court at Mumbai, under the Bombay RentsHotels & Lodging House Rates (Control) Act is challenged. In Writ Petition No. 4138 of 2006, I have already taken a view vide order dated 24th August, 2006 that such decree can be challenged by filing a civil revision application under Section 115 of the Code of Civil Procedure. I have further observed that when such a statutory remedy is available, a writ petition under Article 227 of the Constitution of India need not be entertained.

4. Hence, the writ petition is disposed of as such with liberty to the petitioner to file a civil revision application and if such a civil revision application is filed within a period of four weeks from today, the period of pendency of this writ

petition be taken into consideration for condonation of delay, if any.

5. The status quo order granted earlier will continue to operate for a period of two weeks more from today.

6. Annexures to the petition memo be returned, if applied for.

7. Writ petition is disposed of, accordingly.

Sd/-

(B. H. MARLAPALLE, J.)